

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FRANKLIN ASHLEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 4:19-cv-00309-JCH
)	
WILLIAM MCKINNEY, ET AL.)	
)	
Defendants)	

**SUGGESTIONS IN OPPOSITION TO PLAINTIFF’S MOTION FOR AN ORDER
COMPELLING DISCOVERY (DOC. 41)**

COME NOW Defendants, Stephen Vossick, RN, and Sarah Skaggs, LPN, by and through counsel, and for their Suggestions in Opposition to Plaintiff’s Motion for an Order Compelling Discovery, (Doc. 41), state as follows:

1. This 42 U.S.C. § 1983 suit arises from medical treatment rendered to Plaintiff by Defendants Vossick and Skaggs. (Doc. 1).
2. The parties engaged in discovery between November 21, 2019, and April 9, 2020. (Doc. 28).
3. On April 3, 2020, Plaintiff filed the instant Motion for an Order Compelling Discovery, in which he expressed dissatisfaction with Defendants’ responses to his requests for production.
4. Under Federal Rule of Civil Procedure 37(a), a party can move to compel production of discovery. However, any such motion must also include “a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” Fed. R. Civ. P. 37(a)(1).

5. Local Rule 3.04 also requires any motion seeking discovery to include “a statement that movant’s counsel has conferred in person or by telephone with the opposing counsel in good faith or has made reasonable efforts to do so, but that after sincere efforts to resolve their dispute, counsel are unable to reach an accord.”

6. Plaintiff failed to provide a certification as required by Federal Rule of Civil Procedure 37 and Local Rule 3.04. Therefore, Plaintiff’s motion to compel should be denied.

7. Plaintiff’s Motion should also be denied on the grounds that he failed to attach Defendants’ responses to his requests for production or specifically explain why each of Defendants’ responses were purportedly deficient. (Doc. 41).

Conclusion

Accordingly, Defendants respectfully request that this Court deny Plaintiff’s Motion for an Order Compelling Discovery, (Doc. 41), and for all other relief this Court deems just or necessary.

Respectfully submitted,

/s/ J. Thaddeus Eckenrode

J. Thaddeus Eckenrode MoBar #31080
ECKENRODE-MAUPIN, Attorneys at Law
11477 Olde Cabin Rd., Ste. 110
St. Louis, MO 63141
(314) 726-6670 (Telephone)
(314) 726-2106 (Fax)
jte@eckenrode-law.com
*Attorney for Defendants Stephen Vossick, RN, and
Sarah Skaggs, LPN*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed via the Court's electronic filing system and an electronic copy served on all counsel of record. A copy was served via first class U.S. Mail, postage prepaid, on this 13th day of April, 2020, to the following:

Franklin Ashley, #506654
Potosi Correctional Center
11593 State Highway O
Mineral Point, MO 63660

Pro Se Plaintiff

/s/Libby Cozzoni